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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/763,775

02/26/2001

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EXAMINER

DIXON, THOMAS A

ART UNIT

PAPER NUMBER

3628

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|-----------|---------------|
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3 MONTHS

01/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

09/763,775

**Applicant(s)**

TSUTSUI

**Examiner**

Thomas A. Dixon

**Art Unit**

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 76 is/are pending in the application.
- 4a) Of the above claim(s) 40-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. As per applicant's comments regarding the filing of an RCE in response to the final rejection. It is noted that the election/restriction would be reinstated for the same reasons, that the inventions are different.

The proper method for introduction of the restricted claims would be the filing of a Divisional application claiming priority to the present application. An RCE is continued prosecution of the same invention.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 76 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim and specification are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Appropriate correction is required.

3. Claim 76 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

the term "grasped" in claim 76 is unclear and appears to be idiomatic English.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 76 is rejected under 35 U.S.C. 103(a) as being unpatentable over Korpela (6,311,054), and further in view of Matsuyama (JP 2000-123084).

As per Claim 76.

Korpela ('054) discloses a user information table for storing information regarding a user of each radio portable terminal, see column 1, line 43 – column 2, line 38 and figures 1-2;

a payment-status management table for managing the status of payment of a predetermined usage fee which each user stored in the user information table must pay for a predetermined period, see column 3, lines 19-45;

a detection section for detecting the status of usage of each application, see figures 1-4, and column 3, lines 8-45 and column 4, line 37- column 6, line 41;

a usage status management table for storing the detected usage status, see column 1, line 43 – column 2, line 38; and

a computation section, see column 5, line 56 – column 6, line 8.

Korpela ('054) does not specifically disclose calculating and outputting a license fee to be paid for each provider stored in the provider information, on the basis of a grand total of usage fees grasped by the payment-status management table and the usage status stored in the usage-status management table.

Matsuyama teaches a storage means for storing data which specify the information and data which indicate an amount to be paid to each of information providers for use of the information and calculation means for calculating the sum total of amounts to be paid to each of the information providers based on the data stored in the storage means, see page 5 (0005) of translation, for the benefit of properly compensating the owners of the intellectual property.

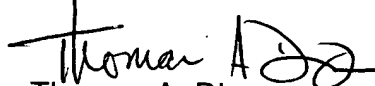
Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate a grand total of usage fees based on stored data as taught by Matsuyama for the benefit of properly compensating the owners of the intellectual property.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Thomas A. Dixon  
Primary Examiner  
Art Unit 3628

January 07